

RECEIVED
CENTRAL FAX CENTER

AUG 04 2006

Fax

DATE: AUGUST 4, 2006	# OF PAGES INCLUDING COVER: 11
TO: UNITED STATES PATENT AND TRADEMARK OFFICE	
FAX: (571) 273-8300	
FROM: SANJEEV DHAND	
ATTY. DKT. No.: K01-001	
MESSAGE: US PATENT APPLICATION No. 09/764,787 ATTACHED PLEASE FIND: <ul style="list-style-type: none">• TRANSMITTAL (3 PAGES);• NOTICE OF APPEAL FROM THE EXAMINER TO THE BOARD OF PATENT APPEALS AND INTERFERENCES (1 PAGE);• PRE-APPEAL BRIEF REQUEST FOR REVIEW (1 PAGE);• STATEMENT IN SUPPORT OF PRE-APPEAL BRIEF REQUEST FOR REVIEW (5 PAGES); AND• AUTHORIZATION TO CHARGE DEPOSIT ACCT No. 50-1674 ANY FEES DUE.	

9605 Scranton Road, Suite 240 San Diego, CA 92121
Phone (858) 795.3000 • Fax (858) 795.3010www.kintera.com

RECEIVED
CENTRAL FAX CENTER

AUG 04 2006

Atty. Dkt. No. K01-001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Schwartz et al.

Title: METHOD AND SYSTEM FOR
AN EFFICIENT FUNDRAISING
CAMPAIGN OVER A WIDE
AREA NETWORK

Appl. No.: 09/764,787

Filing Date: January 17, 2001

Examiner: T. D. Nguyen

Art Unit: 3629

CERTIFICATE OF FACSIMILE TRANSMISSION I hereby certify that this paper is being facsimile transmitted to the United States Patent and Trademark Office, Alexandria, Virginia on the date below. <u>ERIKA J. ZERKER</u> (Printed Name) <u>[Signature]</u> (Signature) <u>8/4/06</u> (Date of Deposit)
--

TRANSMITTAL

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Transmitted herewith are the following in the above-identified application:

1. Notice of Appeal from the Examiner to the Board of Patent Appeals and Interferences
2. Pre-Appeal Brief Request for Review
3. Statement in Support of Pre-Appeal Brief Request for Review

Atty. Dkt. No. K01-001

☒ Small Entity status under 37 C.F.R. § 1.9 and § 1.27 has been established by a previous assertion of Small Entity status.

☒ The fee required for additional claims is calculated below:

	Claims As Amended		Previously Paid For		Extra Claims Present		Rate		Additional Claims Fee
Total Claims:	46	-	46	=	0	x	\$50.00	=	\$0.00
Independent Claims:	4	-	4	=	0	x	\$200.00	=	\$0.00
First presentation of any Multiple Dependent Claims: +									\$360.00 = \$0.00
CLAIMS FEE TOTAL =									\$0.00

☒ Applicant hereby petitions for an extension of time under 37 C.F.R. §1.136(a) for the total number of months checked below:

<input type="checkbox"/> Extension for response filed within the first month:	\$120.00	\$0.00
<input type="checkbox"/> Extension for response filed within the second month:	\$450.00	\$0.00
<input type="checkbox"/> Extension for response filed within the third month:	\$1,020.00	\$0.00
<input type="checkbox"/> Extension for response filed within the fourth month:	\$1,590.00	\$0.00
<input type="checkbox"/> Extension for response filed within the fifth month:	\$2,160.00	\$0.00
EXTENSION FEE TOTAL:		\$0.00
<input type="checkbox"/> Statutory Disclaimer Fee under 37 C.F.R. 1.20(d):	\$130.00	\$0.00
<input checked="" type="checkbox"/> Notice of Appeal Fee	\$500.00	\$500.00
FEE TOTAL:		\$500.00
<input checked="" type="checkbox"/> Small Entity Fees Apply (subtract 1/2 of above):		\$250.00
TOTAL FEE:		\$250.00

☒ Please charge Deposit Account No. 50-1674 in the amount of \$250.00.

☒ The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any

Atty. Dkt. No. K01-001

overpayment, to Deposit Account No. 50-1674. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-1674. If any extensions of time are needed for timely acceptance of papers submitted herewith, applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 50-1674.

Please direct all correspondence to the undersigned attorney or agent at the address indicated below.

Respectfully submitted,

Date August 4, 2006By Sanjeev K. Dhand

KINTERA, INC.
Customer Number: 27309
Telephone: (858) 795-8915
Facsimile: (858) 795-3010

Sanjeev K. Dhand
Attorney for Applicant
Registration No. 51,182

RECEIVED
CENTRAL FAX CENTER

Doc Code: AP.PRE.REQ

AUG 04 2006

PTO/SB/23 (07-05)

Approved for use through 10/06/2006. OMB 0561-0004
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Deskset Number (Optional) K01-001	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on <u>8/4/06</u> Signature <u>[Signature]</u> Typed or printed name <u>ERIKA H. ZORKE</u>		Application Number 09/764,787 Filed 01/17/2001 First Named Inventor SCHWARTZ Art Unit 3629 Examiner T.D. NGUYEN	
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a notice of appeal. The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the <input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/85) <input checked="" type="checkbox"/> attorney or agent of record. 51, 182 Registration number _____ <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____		<u>[Signature]</u> Signature SANJEEV DHAND Typed or printed name 858-795-3000 Telephone number <u>August 4, 2006</u> Date	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.			
<input type="checkbox"/> *Total of _____ forms are submitted.			

This collection of information is required by 35 U.S.C. 122. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

RECEIVED
CENTRAL FAX CENTER

AUG 04 2006 Atty. Dkt. No. K01-001

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Applicant: Schwartz et al.
Title: METHOD AND SYSTEM FOR
AN EFFICIENT FUNDRAISING
CAMPAIGN OVER A WIDE
AREA NETWORK
Appl. No.: 09/764,787
Filing Date: January 17, 2001
Examiner: T. D. Nguyen
Art Unit: 3629

<p>CERTIFICATE OF MAILING</p> <p>I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date below.</p> <p><u>ERIN H. ZERKA</u> (Printed Name)</p> <p><u>[Signature]</u> (Signature)</p> <p><u>8/4/06</u> (Date of Deposit)</p>
--

STATEMENT IN SUPPORT OF PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant respectfully requests review of the non-final rejection of claims 58-72, 75-94 and 97-107, of which claims 58, 82, 102 and 103 are independent.

Rejections under 35 U.S.C. § 103

In the Office Action, Claims 58-72, 75-94 and 97-102 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication 2002/0049816 to Costin, IV et al. (hereinafter "Costin") in view of the McBrearty article of December 1986 (hereinafter "McBrearty"), the Smith article (hereinafter "Smith") and BT article (hereinafter "the BT article") or Leukaemia Busters article (hereinafter "the Leukaemia article").

Atty. Dkt. No. K01-001

The present invention relates to systems and methods for on-line, interactive fundraising. Certain embodiments of the invention allow for solicitors to register and facilitate fundraising by directing potential donors, such as friends or family members, to a personal donation page. In one embodiment, email messages are sent to potential donors with a link to the solicitor's personal donation page. The personal donation page is intended to encourage the potential donors to make a charitable contribution to the fundraising campaign. In some embodiments, this is achieved by providing the name of the solicitor along with the solicitor's personal campaign goal on the personal donation page. In this manner, friends and family are encouraged to donate and help the solicitor reach his or her personal campaign goal. The potential donors are then directed to a personal donation page to make a charitable contribution.

Thus, an email from the solicitor, for example, may include a link to the solicitor's personal donation page. The potential donor may follow the link to the personal donation page, from where the potential donor may make the charitable contribution. This is illustrated in, for example, Figure 9 of U.S. Patent Application Serial No. 09/740,761 (hereinafter "the '761 Application"), which is incorporated by reference into the present application. This feature provides a substantial advantage: being solicited for a donation on the personal donation page of the solicitor (who is likely a friend or family member), the potential donor is more likely to make a charitable contribution. Accordingly, independent claims 58, 82, and 102 each recite "receiving a charitable contribution ... via the personal donation page."

The Office Action makes clear that Costin does not teach making a donation "via the personal donation page." See Office Action dated 07/06/2006, page 6, lines 4-5 and page 7, last 3 lines. The Office Action cites McBrearty as making obvious this feature of the present invention. However, McBrearty neither teaches nor suggests a personal donation page. McBrearty suggests making "thank-you calls" to donors or developing a relationship with key donors. This does not constitute a teaching or suggestion of the use of "a personal donation page" to receive charitable contributions, as recited in the claims of the present application. Without the benefit of hindsight, it would be unreasonable to conclude that the teaching of McBrearty would cause one of skill in the art to modify the fundraising campaign of Costin by

Atty. Dkt. No. K01-001

adding a personal donation page, as suggested in the Office Action, when McBrearty neither teaches nor suggests any such feature.

Further, since McBrearty dates back to 1986, it does not relate to interactive fundraising over a network. Thus, McBrearty neither contemplates nor discloses web-based fundraising and the use of specific web pages, such as a personal donation page, to receive contributions. Thus, McBrearty fails to teach or suggest at least this limitation of the independent claims 58, 82 and 102. Each of the other cited references also fails to teach or suggest this limitation.

In order to establish a *prima facie* case of obviousness, “the prior art reference (or references when combined) must teach or suggest all the claim limitations.” M.P.E.P. § 2142. Since the cited references fail to teach or suggest at least one limitation of independent claims 58, 82 and 102, those claims are patentable.

Objective Evidence of Nonobviousness

As set forth in *Graham v. John Deere*, 383 U.S. 1 (1966), one of the factual inquiries to be considered in determining obviousness is evidence of secondary considerations, such as commercial success, unexpected results, long-felt need, failure of others, copying by others, licensing, and skepticism of experts. M.P.E.P. § 2141. Evidence of secondary considerations must be considered by the Examiner in determining the issue of obviousness. M.P.E.P. § 716.01(a).

In support of the nonobviousness of the claimed invention, Applicants have previously submitted with an amendment filed on April 20, 2006, an article from onphilanthropy.com describing the Salvation Army’s acclaim for and the success and unexpected results achieved with assignee Kintera’s “Friends Asking Friends” innovation, an embodiment of the pending claims:

“In September of 2002, Kintera presented their online technology, including the ‘Friends Asking Friends’ innovation to Salvation Army staff, who immediately recognized its potential The idea behind Ring2Help is that it allows a donor to

Atty. Dkt. No. K01-001

become a 'Virtual Bell Ringer.' It is this person's task to ask his or her friends and family members for a donation [T]he real success of the program was uncovered after studying the numbers. Specifically, 69% of the individual that contributed to the program were new donors to The Army. A quick look at these new donors shows that the program attracted an entirely new demographic to the organization."

Thus, the article clearly establishes that this "innovation" was a "real success" that "was uncovered after studying the numbers," and "emphasize[s] that the fundraisers who sent out multiple emails to their friends and family had the most success." The evidence from an independent third party confirms the nonobviousness of the presently claimed invention.

The Examiner has argued that this submission is insufficient to overcome the 103 rejections "because this program is similar or taught or appears to be similar to" Costin. However, as previously acknowledged by the Examiner, Costin fails to teach or suggest "receiving a charitable contribution ... via the personal donation page." The "Friends Asking Friends" system implemented by the Salvation Army Staff, as an embodiment of the pending claims, included this feature.

Alleged New Matter in Claim 58

The Office Action alleged the introduction of new matter in independent claim 58 in reciting "updating, according to instructions form the donor, one or more virtual plaques displayed on one or more web pages" Applicant notes that support for this feature can be found in paragraph [0051] of U.S. Patent Application Serial No. 09/740,761, filed December 12, 2000, (the "'761 Application"), and incorporated by reference in paragraph [0004] of the present application. Specifically, the '761 Application discloses that "a donor can edit the updated plaque and select particular words or language." Thus, the plaque is updated according to the donor's edits (or instructions).

Atty. Dkt. No. K01-001

Double Patenting Rejection

Claims 58-72, 75-94 and 97-107 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-114 of copending Application No. 09/740,761. If necessary, Applicant will file a terminal disclaimer upon allowance of any claims in the pending application.

CONCLUSION

Independent claims 58, 82 and 102 each recite a feature which is not suggested or taught by any prior art reference cited by the Examiner. Accordingly, those claims are patentable. Claims 59-72, 75-81, 83-94, and 97-101 depend from these independent claims are patentable at least for their dependency from the allowable claims.

Additionally, claim 103, which has not been rejected twice and is not subject to an appeal, also recites the same feature. Accordingly, claim 103 is also patentable. Claims 104-107 depend from allowable claim 103 and are, therefore, patentable for at least that reason.

Respectfully submitted,

Date August 4, 2006By Sanjeev K. Dhand

KINTERA, INC.
Customer Number: 27309
Telephone: (858) 795-8915
Facsimile: (858) 795-3010

Sanjeev K. Dhand
Attorney for Applicant
Registration No. 51,182